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Attorneys for Plaintiff, Thomas E. Perez,  
Secretary of Labor,  
United States Department of Labor

UNITED STATES DISTRICT COURT FOR THE  
NORTHERN DISTRICT OF CALIFORNIA

THOMAS E. PEREZ, Secretary of Labor,	)	Docket No.: 3:15-cv-00227
United States Department of Labor,	)	
	)	
Plaintiff,	)	COMPLAINT FOR VIOLATIONS
v.	)	OF THE FAIR LABOR
	)	STANDARDS ACT
TROY FAROL, as an individual and doing	)	(29 U.S.C. §§ 201, <u>et seq.</u> )
business as Farol's Residential Care	)	
Home; LEILANI FAROL, as an individual	)	
and doing business as Farol's Residential	)	
Care Home; and CESARASAN ARES, an	)	
individual	)	
Defendants.	)	

1. Plaintiff, THOMAS E. PEREZ, Secretary of Labor, United States  
Department of Labor, brings this action to enjoin Defendants TROY FAROL, as  
an individual and doing business as Farol's Residential Care Home; LEILANI  
COMPL. FOR VIOLATIONS OF FLSA

1 FAROL, as an individual and doing business as Farol's Residential Care Home;  
2 FERDINAND FAROL, an individual; and CESARASAN ARES, an individual,  
3 (collectively "Defendants") from violating the provisions of the Fair Labor  
4 Standards Act of 1938, as amended (hereinafter called "FLSA" or the "Act"), 29  
5 U.S.C. § 201 *et seq.*, pursuant to Section 17 of the FLSA, 29 U.S.C. § 217, and to  
6 recover unpaid minimum wage and overtime compensation owed under the Act to  
7 present and former employees of Defendants, including those listed by name on the  
8 attached Exhibit A to this Complaint, together with an equal amount of liquidated  
9 damages, pursuant to Section 16(c) of the Act, 29 U.S.C. § 216(c).

10 2. This Court has subject matter jurisdiction pursuant to Sections 16(c)  
11 and 17 of the Act, 29 U.S.C. §§ 216(c) and 217; this Court also has subject matter  
12 jurisdiction under 28 U.S.C. §§ 1331 (federal question) and 28 U.S.C. § 1345  
13 (United States as plaintiff).

14 3. Venue lies in the United States District Court for the Northern District  
15 of California pursuant to 28 U.S.C. § 1391(b) as a substantial part of the events  
16 giving rise to the claims at issue occurred in or around San Francisco, California.

17 4. (a) Defendant TROY FAROL, as an individual and as doing  
18 business as Farol's Residential Care Home, has and at all times hereinafter  
19 mentioned has had offices and places of business at 801 38<sup>th</sup> Avenue, San  
20 Francisco, CA; 475 Eucalyptus Drive, San Francisco, CA; 757 44<sup>th</sup> Avenue, San  
21 Francisco, CA; 2277 33d Avenue, San Francisco, CA; and 22777 33d Avenue, San  
22 Francisco, CA; within the jurisdiction of this Court, and is, and at all times  
23 hereinafter mentioned was, engaged in the operation of residential care homes for  
24 elderly adults, and acted directly or indirectly in the interest of Farol's Residential  
25 Care Home in relation to its employees by exercising supervisory authority over  
26

1 the employees named in Exhibit A, including making decisions about hiring,  
2 firing, and pay. As such, Defendant TROY FAROL is and has been an employer  
3 within the meaning of FLSA Section 3(d), 29 U.S.C. § 203(d).

4 (b) Defendant LEILANI FAROL, as an individual and doing  
5 business as Farol's Residential Care Home, has and at all times hereinafter  
6 mentioned has had offices and places of business at the locations listed for the  
7 same in subparagraph (a), within the jurisdiction of this Court and is, and at all  
8 times hereinafter mentioned was, engaged in the operation of residential care  
9 homes for elderly adults, and acted directly or indirectly in the interest of Farol's  
10 Residential Care Home in relation to its employees by exercising supervisory  
11 authority over the employees named in Exhibit A, including making decisions  
12 about hiring, firing, and staffing schedules. As such, Defendant LEILANI FAROL  
13 is and has been an employer within the meaning of FLSA Section 3(d), 29 U.S.C. §  
14 203(d).

15 (c) Defendant CESARSAN ARES, an individual, acted directly or  
16 indirectly in the interest of Farol's Residential Care Home in relation to its  
17 employees by exercising supervisory authority over the employees named in  
18 Exhibit A, including making decisions regarding hours worked and  
19 recommendations as to hiring and firing. As such, Defendant CESARSAN ARES  
20 is and has been an employer within the meaning of FLSA Section 3(d), 29 U.S.C. §  
21 203(d).

22 5. Defendants at all times hereinafter mentioned have been, engaged in  
23 related activities performed through unified operation or common control for a  
24 common business purpose, and is and at all times hereinafter mentioned was, an  
25 enterprise within the meaning of Section 3(r) of the Act, 29 U.S.C. § 203(r).

1 Defendants TROY FAROL and LEILANI FAROL operated residential care homes  
2 for elderly adults.

3 6. Defendants are and at all times hereinafter mentioned have been, an  
4 enterprise engaged in commerce or in the production of goods for commerce  
5 within the meaning of Section 3(s)(1)(B) of the Act, 29 U.S.C. § 203(s)(1)(B), in  
6 that said enterprise at all times hereinafter mentioned had employees engaged in  
7 the operation of residential care homes for elderly adults.

8 7. Defendants have repeatedly violated the provisions of Sections 6 and  
9 15(a)(2) of the Act, 29 U.S.C. §§ 206, 215(a)(2), by paying employees wages at  
10 rates less than the applicable federal minimum wage in workweeks when said  
11 employees were engaged in commerce or in the production of goods for commerce  
12 within the meaning of the Section 3(s) of the Act, 29 U.S.C. § 203(s), as described  
13 in paragraph 6 from at least November 18, 2011 to November 17, 2013 (“Subject  
14 Period”).

15 8. Defendants have repeatedly violated the provisions of Sections 7 and  
16 15(a)(2) of the Act, 29 U.S.C. §§ 207 and 215(a)(2), by employing employees who  
17 in workweeks were engaged in commerce or the production of goods for  
18 commerce, within the meaning of Section 3(s) of the Act, 29 U.S.C. § 203(s), for  
19 workweeks longer than forty hours without compensating said employees for their  
20 employment in excess of forty hours per week during such workweeks at rates not  
21 less than one and one-half times the regular rate at which they were employed  
22 during the Subject Period. The violative pay practices included paying employees  
23 at a flat rate for all hours worked.

24 9. Defendants, employers subject to the provisions of the Act, have  
25 violated the provisions of sections 11(c) and 15(a)(5) of the Act, 29 U.S.C. §§

211(c) and 215(a)(5), in that they failed to make, keep, and preserve adequate and accurate records of employees and the wages, hours and other conditions and practices of employment maintained by them as prescribed by regulations duly issued pursuant to authority granted in the Act and found in 29 C.F.R. Part 516, in that records fail to show adequately and accurately, among other things, the hours worked with respect to several employees.

10. (a) During the Subject Period, Defendants have willfully violated the aforesaid provisions of the Act. Defendants were aware of the FLSA wage requirements and consistently and deliberately failed to compensate employees at the required wage rates.

(b) As a result of the aforesaid violations of the Act, there is unpaid minimum wage compensation being withheld by Defendants.

(c) As a result of the aforesaid violations of the Act, there is unpaid overtime compensation being withheld by Defendants.

(d) Judgment permanently enjoining and restraining such violations of the Act is specifically authorized by Section 17 of the Act, 29 U.S.C. § 217.

(e) Judgment enjoining and restraining any continued withholding of unpaid minimum wage and overtime compensation due under the Act is specifically authorized by Section 17 of the Act, 29 U.S.C. § 217.

(f) Judgment awarding unpaid back wages due under the Act, plus an additional amount as liquidated damages that is equal to the amount of the back wages that accrued under the Act, is specifically authorized by Section 16(c) of the Act, 29 U.S.C. § 216(c).

**WHEREFORE**, cause having been shown, Plaintiff prays for a judgment against Defendants as follows:

1           A.     (1)     For an Order pursuant to Section 17 of the Act, 29 U.S.C. §  
2 217, permanently enjoining and restraining Defendants, their officers, agents,  
3 servants, employees, and those persons in active concert or participation with  
4 Defendants, from prospectively violating the provisions of Section 15(a)(2),  
5 15(a)(3), and (a)(5) of the Act, 29 U.S.C. §215(a)(2), (a)(3), and (a)(5); and  
6

7           B.     For an Order

8                 (1)     pursuant to Section 16(c) of the Act, 29 U.S.C. § 216(c),  
9 finding Defendants liable for minimum wage and overtime compensation due  
10 Defendants' employees and for liquidated damages equal in amount to the  
11 minimum wage and overtime compensation found due to Defendants' employees,  
12 including those listed in the attached Exhibit A;

13                 (2)     in the event liquidated damages are not awarded, pursuant to  
14 Section 17 of the Act, 29 U.S.C. § 217, enjoining and restraining Defendants, their  
15 officers, agents, servants, employees and those persons in active concert or  
16 participation with Defendants, from withholding payment of unpaid back wages  
17 found to be due Defendants' employees, and pre-judgment interest at an  
18 appropriate interest rate;

19                 (3)     For an Order awarding Plaintiff the costs of this action; and  
20  
21  
22  
23  
24  
25  
26

(4) For an Order granting such other and further relief as may be necessary or appropriate.

Dated: January 15, 2015

M. PATRICIA SMITH  
Solicitor of Labor

JANET M. HEROLD  
Regional Solicitor

SUSAN SELETSKY  
Counsel for FLSA

/s/ Andrew J. Schultz  
ANDREW J. SCHULTZ  
Trial Attorney

Attorneys for Plaintiff  
Secretary, U.S. Department of Labor

**EXHIBIT A**

Alfanzo, Gabriel  
Aquino, Lorenzo  
Aryan, Marcelo  
Busante, Virginia  
Martinez Garcia Jr, Chrisostomo  
De Villa, Kenneth  
Detoyato, Adora  
Feraren, Danny  
Follosco, Dionisio  
Ho, Ireneo  
Lapuz, Alicia  
Mckenzie, Eleanor  
Naval, Teresita  
Pascua, Irena  
Ras, Danilito  
Revilla Caspillan, Gerald  
Revilla Caspillan, Jerry  
Revilla Caspillan, Rosama  
Rosalez, Sheila  
San Felipe Manangan, Gloria  
Subida, Edgardo  
Subida, Rosa Linda  
Terry, Frecinia  
Tibon, Armida



Toledo, Felix  
Vano, Clarissa  
Velasco, Lynn

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